

**UNITED STATES DISTRICT COURT, EASTERN DISTRICT OF TEXAS,
SHERMAN DIVISION**

ERNEST and KEILA SCRUGGS,	§	
	§	
Plaintiffs,	§	
	§	
v.	§	No.
	§	
H&P CAPITAL, INC.,	§	
	§	
Defendant.	§	

PLAINTIFFS' COMPLAINT AND DEMAND FOR JURY TRIAL

ERNEST and KEILA SCRUGGS (Plaintiffs), through their attorneys, KROHN & MOSS, LTD., allege the following against H&P CAPITAL, INC., (Defendant):

INTRODUCTION

1. Plaintiffs' Complaint is based on the Fair Debt Collection Practices Act, *15 U.S.C. 1692 et seq.* (FDCPA).
2. Defendant acted through its agents, employees, officers, members, directors, heirs, successors, assigns, principals, trustees, sureties, subrogees, representatives, and insurers.

JURISDICTION AND VENUE

3. Jurisdiction of this court arises pursuant to *15 U.S.C. 1692k(d)*, which states that such actions may be brought and heard before "any appropriate United States district court without regard to the amount in controversy."
4. Defendant conducts business in the state of Texas, and therefore, personal jurisdiction is established.
5. Venue is proper pursuant to *28 U.S.C. 1391(b)(1)*.

PARTIES

6. Plaintiffs are natural persons residing in Sherman, Grayson County, Texas.
7. Plaintiffs are consumers as that term is defined by *15 U.S.C. 1692a(3)*, and according to Defendant, Plaintiffs allegedly owe a debt as that term is defined by *15 U.S.C. 1692a(5)*.
8. Defendant is a debt collector as that term is defined by *15 U.S.C. 1692a(6)*, and sought to collect a consumer debt from Plaintiffs.
9. Defendant is a national debt collection company and with an office in Jacksonville, Florida.

FACTUAL ALLEGATIONS

10. Defendant placed collection calls to Plaintiffs seeking and demanding payment for an alleged debt.
11. On March 23, 2011, Defendant's representative, Craig Lombardo, called Plaintiffs and threatened that their claim would be filed against them if Plaintiffs did not pay the alleged debt.
12. On March, 23, 2011, Defendant's representative, Craig Lombardo, called Plaintiffs and threatened to prosecute them and put them in jail if Plaintiffs did not pay the alleged debt.
13. Defendant contacted Plaintiffs and failed to disclose they were a debt collector.

COUNT I

DEFENDANT VIOLATED THE FAIR DEBT COLLECTION PRACTICES ACT

14. Defendant violated the FDCPA based on the following:
 - a. Defendant violated §1692d of the FDCPA by engaging in conduct of which the natural consequence is the abuse and harassment of the Plaintiff.
 - b. Defendant violated §1692e(4) of the FDCPA by falsely implying that Plaintiff's non-payment of her alleged debt would result in Plaintiff's arrest or imprisonment.

- c. Defendant violated §1692e(5) of the FDCPA by threatening to file a lawsuit against Plaintiff even though Defendant does not intend to do so.
- d. Defendant violated §1692e(10) of the FDCPA by using deceptive means in an attempt to collect a debt by falsely implying that Plaintiff's non-payment of her alleged debt would result in Plaintiff's arrest or imprisonment.
- e. Defendant violated §1692e(10) of the FDCPA by using deceptive means in an attempt to collect a debt by threatening to file a lawsuit against Plaintiff even though Defendant does not intend to do so.
- f. Defendant violated §1692e(11) of the FDCPA by failing to disclose in subsequent communications that the call is from a debt collector attempting to collect a debt and that any information obtained will be used for that purpose because Defendant calls Plaintiff and hangs up without leaving a voicemail message.

WHEREFORE, Plaintiffs, ERNEST and KEILA SCRUGGS, respectfully request judgment be entered against Defendant, H&P CAPITAL, INC., for the following:

- 15. Statutory damages pursuant to the Fair Debt Collection Practices Act, *15 U.S.C. 1692k*,
- 16. Costs and reasonable attorneys' fees pursuant to the Fair Debt Collection Practices Act, *15 U.S.C. 1692k*
- 17. Any other relief that this Honorable Court deems appropriate.

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RESPECTFULLY SUBMITTED,

Dated: May 18, 2011

By: /s/ Michael Agruss, Esq.
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DEMAND FOR JURY TRIAL

PLEASE TAKE NOTICE that Plaintiffs, ERNEST and KEILA SCRUGGS, demand a jury trial in this case.

1. I am the Plaintiff in this civil proceeding.
2. I have read the above-entitled civil Complaint prepared by my attorneys and I believe that all of the facts contained in it are true, to the best of my knowledge, information and belief formed after reasonable inquiry.
3. I believe that this civil Complaint is well grounded in fact and warranted by existing law or by a good faith argument for the extension, modification or reversal of existing law.
4. I believe that this civil Complaint is not interposed for any improper purpose, such as to harass any Defendant(s), cause unnecessary delay to any Defendant(s), or create a needless increase in the cost of litigation to any Defendant(s), named in the Complaint.
5. I have filed this Complaint in good faith and solely for the purposes set forth in it.
6. Each and every exhibit I have provided to my attorneys which has been attached to this Complaint is a true and correct copy of the original.
7. Except for clearly indicated redactions made by my attorneys where appropriate, I have not altered, changed, modified or fabricated these exhibits, except that some of the attached exhibits may contain some of my own handwritten notations.

Pursuant to 28 U.S.C. § 1746(2), I, ERNEST SCRUGGS, hereby declare (or certify, verify or state) under penalty of perjury that the foregoing is true and correct.

5-12-11
Date

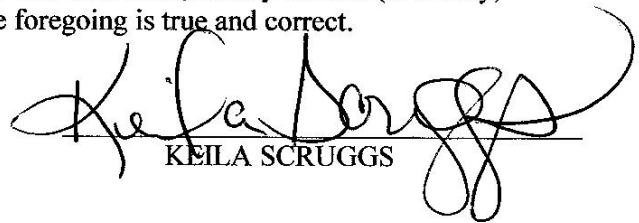

ERNEST SCRUGGS

Plaintiff, KEILA SCRUGGS, states the following:

8. I am the Plaintiff in this civil proceeding.
9. I have read the above-entitled civil Complaint prepared by my attorneys and I believe that all of the facts contained in it are true, to the best of my knowledge, information and belief formed after reasonable inquiry.
10. I believe that this civil Complaint is well grounded in fact and warranted by existing law or by a good faith argument for the extension, modification or reversal of existing law.
11. I believe that this civil Complaint is not interposed for any improper purpose, such as to harass any Defendant(s), cause unnecessary delay to any Defendant(s), or create a needless increase in the cost of litigation to any Defendant(s), named in the Complaint.
12. I have filed this Complaint in good faith and solely for the purposes set forth in it.
13. Each and every exhibit I have provided to my attorneys which has been attached to this Complaint is a true and correct copy of the original.
14. Except for clearly indicated redactions made by my attorneys where appropriate, I have not altered, changed, modified or fabricated these exhibits, except that some of the attached exhibits may contain some of my own handwritten notations.

Pursuant to 28 U.S.C. § 1746(2), I, KEILA SCRUGGS, hereby declare (or certify, verify or state) under penalty of perjury that the foregoing is true and correct.

5/12/2011
Date


KEILA SCRUGGS